

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOMINIC MAYHALL, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

AMAZON WEB SERVICES, INC. and
AMAZON.COM, INC.,

Defendants.

Case No.: 2:21-cv-01473-TL-MLP

**JOINT NOTICE OF MEDIATION AND
MOTION TO AMEND SCHEDULING
ORDER**

**NOTE ON MOTION CALENDAR:
July 12, 2024**

Plaintiff Dominic Mayhall (“Plaintiff”) and Defendants Amazon Web Services, Inc. and Amazon.com, Inc., by and through counsel, jointly advise the Court that they have agreed to a private mediation, currently scheduled for August 14, 2024. The parties submit this notice so that the Court may take measures to preserve its own resources on pending matters before it. Additionally, to facilitate resolution efforts, and in the interests of judicial economy, the parties seek to preserve the current status quo of the case through the mediation date and accordingly respectfully request an extension of the case schedule deadlines as set forth below. A proposed Amended Scheduling Order is being filed with this Motion. In support of this motion, the parties state as follows:

1. This is a putative class action alleging claims under Illinois' Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* On February 8, 2024, the Court entered its Amended Order Setting Trial Date and Pretrial Schedule (the "Scheduling Order") (Dkt. 71), providing for a jury trial to begin at 9:00 am on April 7, 2025 and setting the following deadlines (among others):

Motion for Class Certification	75 days after resolution of Defendants' Motion to Dismiss
Report of expert witnesses under FRCP 26(a)(2)	10/4/2024
All motions related to discovery must be filed by this date and noted no later than the third Friday thereafter (<i>see</i> LCR7(d)).	10/4/2024
Rebuttal expert disclosures under FRCP 26(a)(2) due	11/15/2024
Discovery to be completed by	11/15/2024
All dispositive motions and motions to exclude testimony for failure to satisfy <i>Daubert</i> must be filed pursuant to LCR 7(d)	12/13/2024
Settlement Conference, if mediation has been requested by the parties per LCR 39.1, held no later than	1/13/2025
Mediation per LCR 39.1, if requested by the parties, held no later than	2/12/2025
All motions in limine must be filed by	3/10/2025
Agreed LCR 16.1 Pretrial Order due	3/17/2025
Trial briefs, proposed voir dire questions, proposed jury instructions, deposition designations, and exhibit lists due by this date. Counsel are to confer and indicate with their submissions which exhibits are agreed to.	3/24/2025
Pretrial Conference scheduled for 9:30 a.m. on	3/31/2025

2. Plaintiff filed his First Amended Class Action Complaint on February 19, 2024 (Dkt. 72).

3. Defendants filed their Motion to Dismiss First Amended Complaint on March 15, 2024 (Dkt. 78).

1 4. On May 30, 2024, Magistrate Judge Peterson entered her Report and
2 Recommendation, recommending that Defendants' Motion to Dismiss be denied (Dkt. 87).

3 5. On June 12, 2024, Defendants filed their Objection to Judge Peterson's Report and
4 Recommendation (the "Objection") (Dkt. 90). On June 25, 2024, Plaintiff filed his Response to the
5 Objection (Dkt. 98). To date, Defendants' Motion to Dismiss remains pending.

6 6. The parties recently reached an agreement to explore potential resolution of this
7 case promptly while the Motion to Dismiss and Objection to the Report and Recommendation
8 remain pending and before the parties must expend further substantial resources. The parties
9 thereafter agreed to mediate the case this summer, negotiated and agreed on a mediator, and
10 scheduled the mediation for August 14, 2024.

11 7. The parties agree it would promote their mediation/resolution efforts and would be
12 in the interest of judicial economy for the Court to defer significant case deadlines and events that
13 would potentially alter the current status quo or unnecessarily waste party or Court resources, and
14 accordingly, request that the Court extend the current deadlines set forth above by approximately
15 100 days to allow the parties to focus on the mediation and avoid significant costs related to expert
16 witnesses and other discovery that would be necessary to incur under the current deadlines.

17 8. Good cause exists to modify the Scheduling Order in light of: (a) the parties'
18 agreement to mediate the case on August 14, 2024; (b) the nature of the discovery remaining in this
19 complex class action; and (c) the current expert disclosure and discovery deadlines combined with
20 the interest of avoiding significant expenditures relating to expert and other discovery until after
21 the upcoming mediation.

22 9. This request is made in good faith, not for the purpose of delay, and will not
23 prejudice any party.

24 10. Accordingly, the parties request that the Court modify the Scheduling Order and
25 extend all deadlines by approximately 100 days, as set forth in the following chart:
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EVENT	CURRENT DATE	PROPOSED AMENDED DATE
JURY TRIAL to begin at 9:00 a.m., on:	4/7/2025	8/25/2025
Motion for Class Certification	75 days after resolution of Defendants' Motion to Dismiss	75 days after resolution of Defendants' Motion to Dismiss
Response to Motion for Class Certification	45 days after filing of motion	45 days after filing of motion
Reply in Support of Motion for Class Certification	30 days after filing of response	30 days after filing of response
Report of expert witnesses under FRCP 26(a)(2)	10/4/2024	1/15/2025
All motions related to discovery must be filed by this date and noted no later than 21 days thereafter (<i>see</i> LCR 7(d)).	10/4/2024	1/15/2025
Rebuttal expert disclosures under FRCP 26(a)(2) due	11/15/2024	2/26/2025
Discovery to be completed by	11/15/2024	3/26/2025
All dispositive motions and motions to exclude testimony for failure to satisfy <i>Daubert</i> must be filed pursuant to LCR 7(d)	12/13/2024	4/25/2025
All motions in limine must be filed by	3/10/2025	7/28/2025
Agreed LCR 16.1 Pretrial Order due	3/17/2025	8/4/2025
Trial briefs, proposed voir dire questions, proposed jury instructions, deposition designations, and exhibit lists due by this date. Counsel are to confer and indicate with their submissions which exhibits are agreed to.	3/24/2025	8/11/2025
Pretrial Conference scheduled for 9:30 a.m. on	3/31/2025	8/18/2025

11. Finally, the parties respectfully wish to advise the Court that their agreement to mediate at this time was largely based on a recognition that the current status quo in this case—including the lingering uncertainty over the pending Motion to Dismiss and Objection to the Report and Recommendation—provides the parties with a prime opportunity to explore a potential resolution. In scheduling their mediation in mid-August, the earliest practicable time at which both the parties and the mediator were available, the parties are attempting to explore the potential for resolution while the issues raised in the Motion to Dismiss and Objection to the Report and Recommendation remain pending. Furthermore, the parties submit that a ruling on the Motion to Dismiss and the Objection to the Report and Recommendation will trigger immediate substantial litigation expenses and efforts related to Plaintiffs' forthcoming Motion for Class Certification. Accordingly, while the parties recognize that they have no power over the timing of the Court's ruling on the Motion to Dismiss or control over its docket, they respectfully submit that were the Court to defer its ruling until after the mediation has occurred, such a decision would further the interests of justice and efficiency.

12. The parties will promptly notify the Court of the outcome of the mediation, including of any settlement pursuant to Local Rule 11(b).

WHEREFORE, the parties jointly notify the Court of their mediation scheduled for August 14, 2024, and respectfully request that the Court modify the Scheduling Order as set forth above and grant such other or further relief as the Court deems just and proper.

I certify that this memorandum contains 1,182 words, in compliance with the Local Civil Rules.

DATED this 12th day of July, 2024.

TOUSLEY BRIAN STEPHENS PLLC

By: /s/ Jason T. Dennett

/s/ Cecily C. Jordan

Jason T. Dennett, WSBA #30686

Cecily C. Jordan, WSBA #50061

jdennett@tousley.com

cjordan@tousley.com

1200 Fifth Avenue, Suite 1700
Seattle, Washington, 98101
Telephone: 206.682.5600

/s/ Kevin P. Green

Kevin P. Green, *admitted pro hac vice*
kevin@ghalaw.com

GOLDENBERG HELLER &
ANTOGNOLI, P.C.

2227 South State Route 157

Edwardsville, IL 62025

Telephone: 618-656-5150

/s/ Christian G. Montroy

Christian G. Montroy, *admitted pro hac vice*

cmontroy@montroylaw.com

MONTROY LAW OFFICES LLC

2416 North Center

PO Box 369

Maryville, IL 62062

Telephone: 618-223-8200

***Attorneys for Plaintiff and the Proposed
Class***

FENWICK & WEST LLP

By: /s/ Brian D. Buckley

Brian D. Buckley, WSBA No. 26423

401 Union Street

5th Floor

Seattle, WA 98101

Telephone: 206.389.4510

Facsimile: 206.389.4511

Email: bbuckley@fenwick.com

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Elizabeth B. Herrington

Elizabeth B. Herrington, IL #6244547

(*pro hac vice*)

110 North Wacker Drive

Chicago, IL 60601-5094

Telephone: (312) 324-1000

E-mail: beth.herrington@morganlewis.com

Attorneys for Defendants